Permit No.: **WA-0026123**

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq*., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

City of Toppenish
501 Annahat
Toppenish, Washington 98948

is authorized to discharge from the **City of Toppenish Wastewater Treatment** facility located in **Toppenish, Washington**, at the following location(s):

Outfall	Receiving Water	Latitude	Longitude
001	**Toppenish Drain**	**46° 22' 67"**	**120° 13' 24"**

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective

This permit and the authorization to discharge shall expire at midnight,

Signed this day of

Randall F. Smith
Director
Office of Water, Region 10

U.S. Environmental Protection Agency

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I. LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls specified herein to the Toppenish Drain, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

A. Effluent Limitations and Monitoring

1. The permittee must limit and monitor discharges from outfall 001 as specified in Table 1 below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

Table 1 - Outfall 001 Effluent Limitations and Monitoring Requirements

PARAMETER	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS		
	Average Monthly Limit	Average Weekly Limit	Daily Maximum Limit	Sample Location	Sample Frequency	Sample Type
Flow, MGD	---	---	---	Effluent	Continuous	Recording
Biochemical Oxygen Demand (BOD_5)	30 mg/l	45 mg/l	---	Influent and Effluent	weekly	24-hour composite
	475 lbs/day	713 lbs/day	---			
Total Suspended Solids (TSS)	30 mg/l	45 mg/l	---	Influent and Effluent	weekly	24-hour composite
	475 lbs/day	713 lbs/day	---			
Fecal Coliform[1] Bacteria[1]	100/100 ml	---	---	Effluent	weekly	grab

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Table 1 - Outfall 001 Effluent Limitations and Monitoring Requirements

PARAMETER	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS		
	Average Monthly Limit	Average Weekly Limit	Daily Maximum Limit	Sample Location	Sample Frequency	Sample Type
Total Residual Chlorine[2,3]	2 µg/L	---	9µg/L	Effluent	weekly	grab
	0.03 lbs/day	---	0.14 lbs/day			
Total Ammonia as N[3]	1.23 mg/L	---	2.04 mg/L	Effluent	weekly	24-hour composite
	19.5 lbs/day	---	32.3 lbs/day			
pH, standard Units	see Part I.3			Effluent	daily	grab
Dissolved Oxygen, mg/L	---	---	---	Effluent	weekly	grab
Total Phosphorus, mg/l	---	---	---	Effluent	monthly	24-hour composite
Orthophosphate, mg/L	---	---	---	Effluent	monthly	24-hour composite
Kjeldahl total Nitrogen, (as N), mg/l	---	---	---	Effluent	monthly	24-hour composite
Nitrate/Nitrite, total N Mg/l	---	---	---	Effluent	monthly	24-hour composite
Temperature, °C	---	---	---	Effluent	daily	grab
Hardness (as $CaCO_3$), mg/L	---	---	---	Effluent	monthly	24-hour composite
Antimony[4], µg/L	---	---	---	Effluent	semi-annual	24-hour composite
Arsenic[4], µg/L	---	---	---	Effluent	semi-annual	24-hour composite
Copper[2,4,5], µg/L	6.5	---	9.4	Effluent	semi-annual	24-hour composite
lbs/day	0.10		0.15			

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Table 1 - Outfall 001 Effluent Limitations and Monitoring Requirements

PARAMETER	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS		
	Average Monthly Limit	Average Weekly Limit	Daily Maximum Limit	Sample Location	Sample Frequency	Sample Type
Lead[4], µg/L	---	---	---	Effluent	semi-annual	24-hour composite
Selenium[4], µg/L	---	---	---	Effluent	semi-annual	24-hour composite
Zinc[2,4], µg/L lbs/day	45.9 0.73	---	91.1 1.44	Effluent	semi-annual	24-hour composite
Whole Effluent Toxicity[6], TU_c	---	---	---	Effluent	See I.C.	24-hour composite

Footnotes:

1. Fecal coliform organisms shall not have more than 10% of all samples obtained for calculating the geometric mean value exceeding 200 colonies/100 ml. See Part VI for the definition of geometric mean.
2. Reporting is required within 24 hours of a maximum daily limit violation. See Part III.G.
3. The effluent limits for chlorine are not quantifiable using EPA approved analytical methods. EPA will use 100 µg/l for chlorine.
4. The number of increments taken in one 24-hour composite must be no less than 96.
5. The effluent limit for copper is not quantifiable using EPA approved analytical methods. EPA will use 10 µg/l for copper.
6. See Part I.C. for whole effluent toxicity testing requirements.

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2. The permittee must not discharge any floating solids, visible foam in other than trace amounts, or oily wastes that produce a sheen on the surface of the receiving water.

3. The pH of the effluent must not be less than 6.5 standard units (s.u.), nor greater than 8.5 standard units (s.u.).

4. Removal Requirements for BOD_5 and TSS: The monthly average effluent concentration must not exceed 15% of the monthly average influent concentration.

   Percent removal of BOD_5 and TSS must be reported on the Discharge Monitoring Reports (DMRs). For each parameter, the monthly average percent removal must be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values for that month. Influent and effluent samples must be taken over approximately the same time period.

5. There must be no discharge of floating, suspended, or submerged matter or any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses.

5. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.

6. Method Detection Limits. For all effluent monitoring, the permittee must use methods that can achieve a method detection limit (MDL) less than the effluent limitation. For parameters that do not have effluent limitations, the permittee must use methods that can achieve MDLs less than or equal to those specified in Table 2.

Table 2 Method Detection Limits for Metals in Effluent

Parameter	Method Detection Limit (MDL) µg/l
Antimony	8
Arsenic	8
Copper	3
Lead	10
Selenium	20
Zinc	3

8. For purposes of reporting on the DMR, if a value is greater than the MDL, the permittee must report the actual value. If a value is less than the MDL, the permittee must report "less than {numeric MDL}" on the DMR. For purposes of calculating monthly averages, zero may be used for values less than the MDL.

B. Ammonia and Metals Schedule of Compliance.

1. The permittee must achieve compliance with the ammonia, copper, and zinc limitations of Part I.A.1. (Table 1), by 4 years and 6 months after the

effective date of the Final Permit.

2. Until compliance with the effluent limits is achieved, at a minimum, the permittee must achieve compliance with the limits listed in Table 3.

Table 3 Limits for Ammonia and Metals	
Parameter	Daily Max.
Ammonia, mg/l	11
Copper µg/l	17
Zinc µg/l	100

3. The permittee must submit an Annual Report of Progress which outlines the progress made towards reaching the compliance date for the ammonia and metals effluent limitations. The annual Report of Progress must be submitted by February 1 of each year. The first report is due February 1, 2004 and annually thereafter, until compliance with the ammonia and metals effluent limits is achieved. See also Part II.J., "Compliance Schedules". At a minimum, the annual report must include:

   a. An assessment of the previous year of ammonia and metals data and comparison to the effluent limitations.

   b. A report on progress made towards meeting the effluent limitations.

   c. Further actions and milestones targeted for the upcoming year.

C. Whole Effluent Toxicity Testing Requirements. The permittee must conduct chronic

toxicity tests on effluent samples from outfall 001. Testing must be conducted in accordance with subsections 1 through 4 below.

1. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part I.A above. When the timing of sample collection coincides with that of the sampling required in Part I.A, analysis of the split sample will fulfill the requirements of Part I.A.

2. Chronic Test Species and Methods

   a. For outfall 001, permittee must conduct four quarterly chronic tests for 1 year, from the year preceding the permit application. And the permittee must conduct 3 priority pollutant scans (See Appenidix A for Priority Pollutant list) within 4 years and 6 months prior to the date of the permit application..

   b. The permittee must conduct short-term tests with the water flea, *Ceriodaphnia dubia* (survival and reproduction test), and the fathead minnow, *Pimephales promelas* (larval survival and growth test).

   c. The presence of chronic toxicity must be determined as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600-4-91-002, July 1994.

   d. Results must be reported in TU_c (chronic toxic units), where $TU_c = 100/NOEC$. See Part VI. for a definition of NOEC.

3. Quality Assurance

   a. The toxicity testing on each organism must include a series of five test dilutions and a control. The dilution series must include 6%, 12.5%, 25%, 50% and 100%.

   b. All quality assurance criteria and statistical analyses used for chronic tests and reference toxicant tests must be in accordance with *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater*

Organisms, Third Edition, EPA/600-4-91-002, July 1994, and individual test protocols.

c. In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:

i) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. If organisms are cultured in-house, monthly reference toxicant testing is sufficient. Reference toxicant tests must be conducted using the same test conditions as the effluent toxicity tests.

ii) If either of the reference toxicant tests or the effluent tests do not meet all test acceptability criteria as specified in the test methods manual, the permittee must re-sample and re-test within 14 days of receipt of the test results.

iii) Control and dilution water must be receiving water or lab water, as appropriate, as described in the manual. If the dilution water used is different from the culture water, a second control, using culture water must also be used. Receiving water may be used as control and dilution water upon notification of EPA and IDEQ. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

4. Reporting

a. The permittee must submit the results of the toxicity tests with the discharge monitoring reports (DMR). Toxicity tests taken from April 1 through October 31 must be reported on the December DMR. Toxicity tests taken from November 1 through March 31 must be reported on the May DMR.

b. The report of toxicity test results must include all relevant information outlined in Section 10, Report Preparation, of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600-4-91-002, July 1994. In addition to toxicity test results, the permittee must report: dates of sample collection and initiation of

each test; flow rate at the time of sample collection; and the results of the monitoring required in Part I.A.

D. Surface Water Monitoring. The permittee must conduct surface water monitoring. Surface water monitoring must start 120 days after the effective date of the permit and continue for 3 years. The program must meet the following requirements:

1. Monitoring stations must be established in Toppenish Drain at the following locations:

   a. above the influence of the facility's discharge, and
   b. below the facility's discharge, at a point where the effluent and Toppenish Drain are completely mixed.

Monitoring stations must be approved by the Yakama Nation Department of Natural Resources Environmental Management Program and EPA.

2. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.

3. Surface water samples, except flow, must be grab samples.

4. Antimony, arsenic, copper, lead, selenium, and zinc must be analyzed as dissolved.

5. The flow rate must be measured as near as practical to the time that other ambient parameters are sampled.

6. Samples must be analyzed for the parameters listed in Table 3, and must achieve method detection limits (MDLs) that are equivalent to or less than those listed in Table 2. The permittee may request different MDLs. The request must be in writing and must be approved by EPA.

Table 3: Surface Water Monitoring Parameter, Locations, and Method Detection Limits

Parameter	Units	Upstream Sampling Frequency	Downstream Sampling Frequency

Flow	mgd	semi-annual	-----
Fecal Coliform Bacteria	colonies/100 ml	semi-annual	-----
Total Phosphorus as P	mg/L	semi-annual	semi-annual
Orthophosphate as P	mg/L	semi-annual	semi-annual
Total Ammonia as N	mg/L	-----	semi-annual
Nitrate/Nitrite as N	mg/L	semi-annual	semi-annual
Kjeldahl Total Nitrogen (as N)	mg/L	semi-annual	semi-annual
Temperature	°C	-----	semi-annual
pH	standard units	-----	semi-annual
Hardness as $CaCO_3$	mg/L	semi-annual	
Antimony	µg/L	semi-annual	-----
Arsenic	µg/L	semi-annual	
Copper	µg/L	semi-annual	
Lead	µg/L	semi-annual	
Selenium	µg/L	semi-annual	
Zinc	µg/L	semi-annual	-----

7. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Part I.D., "Quality Assurance Plan".

8. Surface water monitoring results must be submitted to EPA and the Yakama Nation Department of Natural Resources Environmental Management Program with the next permit application, which is due 180 days prior to the expiration date of this permit. At a minimum, the report must include the following:

   a. Dates of sample collection and analyses.

b. Results of sample analysis.
c. Relevant quality assurance/quality control (QA/QC) information.

E. Quality Assurance Plan (QAP). The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. The EPA and the Yakama Nation Department of Natural Resources Environmental Management Program must be notified of the plan within 60 days of the effective date of this permit, and the plan must be implemented within 120 days of the effective date of this permit. Any existing QAPs may be modified for submittal under this section.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.

2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format which is specified in these documents.

   The following references may be helpful in preparing the Quality Assurance Plan for this permit:
   U.S. Environmental Protection Agency, Method 1669: Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels, 1995 (EPA-821-R-95-034), and *U.S. Environmental Protection Agency, Sampling Ambient and Effluent Waters for Trace Metals* (EPA-821-V-97-001).

3. At a minimum, the QAP must include the following:

   a. Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.

b. Map(s) indicating the location of each sampling point.

c. Qualification and training of personnel.

d. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee.

4. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.

5. Copies of the QAP must be kept on site and made available to EPA and/or Yakama Nation Department of Natural Resources Environmental Management Program upon request.

F. **Best Management Practices Plan** The permittee is required to incorporate appropriate BMPs into their Operation and Maintenance (O&M) manual for their POTW within 180 days of the effective date of the final permit. Specifically, the City of Toppenish should consider spill prevention and control, optimization of chlorine and chemical use, public education aimed at controlling the introduction of household hazardous materials to the sewer system, and water conservation. To the extent that any of these issues have already been addressed in the facility's current O&M manual, the City of Toppenish need only reference the O&M manual in the BMP plan. The BMP plan must be revised as new practices are developed for the facility.

G. **Facility Planning Requirement** Each month, the permittee must compute an annual average value for the flow, BOD_5 loading, and TSS loading entering the facility based on the previous twelve months data or all data available, whichever is less. If the facility has completed a plant upgrade that affects the facility planning value for the design flow, only the data collected after the upgrade should be used in determining the annual average value.

When the annual average values exceed 85% of the facility design flow of 1.9 mgd, the permittee must develop a facility plan and schedule within one year from the date of the first exceedence. The plan must include the permittee's strategy for continuing to maintain compliance with effluent limits and will be made available to the Director or authorized

representative upon request.

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling (Routine and Non-Routine Discharges). Samples and measurements must be representative of the volume and nature of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited in Part I.A. of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with paragraph II.C ("Monitoring Procedures"). The permittee must report all additional monitoring in accordance with paragraph II.D ("Additional Monitoring by Permittee").

B. Reporting of Monitoring Results. The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent on forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. The permittee must submit reports monthly, postmarked by the 10th day of the following month. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part IV.E. of this permit ("Signatory Requirements"). The permittee must submit the legible originals of these documents to the Director, Office of Water, with copies to the Yakama Nation Department of Natural Resources Environmental Management Program at the following addresses:

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, OW-133
Seattle, Washington 98101

Yakama Nation
Dept. of Natural Resources Environmental Management Program
P.O. Box 151
Toppenish, WA 98948

C. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR 136 or, in the case of sludge use or disposal, approved under 40 CFR 503, unless other test procedures have been specified in this permit.

D. Additional Monitoring by Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or, in the case of sludge use or disposal, approved under 40 CFR 136 unless otherwise specified in 40 CFR 503, or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR or sludge reporting forms specified by the Director.

Upon request by the Director, the permittee must submit results of any other sampling, regardless of the test method used.

E. Records Contents. Records of monitoring information must include:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the names of the individual(s) who performed the analyses;
5. the analytical techniques or methods used; and
6. the results of such analyses.

F. Retention of Records. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR 503), the permittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of

the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or the Yakama Nation Department of Natural Resources Environmental Management Program at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:

    a. any noncompliance that may endanger health or the environment;

    b. any unanticipated bypass that exceeds any effluent limitation in the permit (See Part III.F., "Bypass of Treatment Facilities");

    c. any upset that exceeds any effluent limitation in the permit (See Part III.G., "Upset Conditions");

    d. any violation of a maximum daily or instantaneous maximum discharge limitation for any of the pollutants in Table 1 of Part I.A.; or

    e. any overflow prior to the treatment works, whether or not such overflow endangers health or the environment or exceeds any effluent limitation in the permit.

2. The permittee must also provide a written submission within 5 days of the time that the permittee becomes aware of any event required to be reported under subpart 1, above. The written submission must contain:

    a. a description of the noncompliance and its cause;

    b. the period of noncompliance, including exact dates and times;

c. the estimated time noncompliance is expected to continue if it has not been corrected;

d. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and

e. if the non compliance involves an overflow prior to the treatment works, an estimate of the quantity (in gallons) of untreated overflow.

3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.

4. Reports must be submitted to the addresses in Part II.B ("Reporting of Monitoring Results").

H. Other Noncompliance Reporting. The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part II.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Part II.G.2 of this permit ("Twenty-four Hour Notice of Noncompliance Reporting").

I. Notice of New Introduction of Pollutants. The permittee must provide notice to the Director and the Yakama Nation Department of Natural Resources Environmental Management Program of:

1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to Sections 301 or 306 of the Act if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

3. For the purposes of this section, adequate notice must include information on:

a. The quality and quantity of effluent to be introduced into the POTW, and

b. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions

1. Civil and Administrative Penalties. Pursuant to 40 CFR 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $27,500 per day for each violation).

2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $27,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act

and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $137,500).

3. Criminal Penalties:

   a. Negligent Violations. The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

   b. Knowing Violations. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

   c. Knowing Endangerment. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon

conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

d. False Statements. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.

D. Duty to Mitigate. The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance. The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this Part.

2. Notice.

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior notice, to the Director and the Yakama Nation Department of Natural Resources Environmental Management Program if possible at least 10 days before the date of the bypass.

   b. Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part II.G ("Twenty-four Hour Notice of Noncompliance Reporting").

3. Prohibition of bypass.

   a. Bypass is prohibited, and the Director may take enforcement action against the permittee for a bypass, unless:

      i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

      iii) The permittee submitted notices as required under paragraph 2 of this Part.

b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 3.a. of this Part.

G. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee meets the requirements of paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An upset occurred and that the permittee can identify the cause(s) of the upset;

   b. The permitted facility was at the time being properly operated;

   c. The permittee submitted notice of the upset as required under Part II.G, "Twenty-four Hour Notice of Noncompliance Reporting;" and

   d. The permittee complied with any remedial measures required under Part III.D, "Duty to Mitigate."

3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

H. Toxic Pollutants. The permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the Act within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

I. Planned Changes. The permittee must give notice to the Director and theYakama Nation Department of Natural Resources Environmental Management Program as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this permit.

3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application site.

J. Anticipated Noncompliance. The permittee must give advance notice to the Director and the Yakama Nation Department of Natural Resources Environmental Management Program of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

IV. GENERAL PROVISIONS

A. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

B. Duty to Reapply. If the permittee intends to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. In accordance with 40 CFR 122.21(d), and unless permission for the application

to be submitted at a later date has been granted by the Director, the permittee must submit a new application at least 180 days before the expiration date of this permit.

C. **Duty to Provide Information**. The permittee must furnish to the Director and the Yakama Nation Department of Natural Resources Environmental Management Program, within the time specified in the request, any information that the Director or the Yakama Nation Department of Natural Resources Environmental Management Program may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee must also furnish to the Director or the Yakama Nation Department of Natural Resources Environmental Management Program, upon request, copies of records required to be kept by this permit.

D. **Other Information**. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director or the Yakama Nation Department of Natural Resources Environmental Management Program, it must promptly submit such facts or information.

E. **Signatory Requirements**. All applications, reports or information submitted to the Director and the Yakama Nation Department of Natural Resources Environmental Management Program must be signed and certified as follows.

1. All permit applications must be signed as follows:

    a. For a corporation: by a responsible corporate officer.

    b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

    c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director or the Yakama Nation Department of Natural Resources Environmental Management

Program must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and

c. The written authorization is submitted to the Director and the Yakama Nation Department of Natural Resources Environmental Management Program.

3. Changes to authorization. If an authorization under Part IV.E.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part IV.E.2. must be submitted to the Director and the Yakama Nation Department of Natural Resources Environmental Management Program prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under this Part must make the following certification:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. Availability of Reports. In accordance with 40 CFR 2, information submitted to EPA

pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

G. Inspection and Entry. The permittee must allow the Director and theYakama Nation Department of Natural Resources Environmental Management Program, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

H. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of state or local laws or regulations.

I. Transfers. This permit is not transferable to any person except after notice to the

Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)

J. **State Laws**. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

K. **Reopener**. This permit may be reopened to include any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the Act. The Director may modify or revoke and reissue the permit if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

V. DEFINITIONS

1. "Act" means the Clean Water Act.

2. "Acute Toxic Unit" ("TU_a") is a measure of acute toxicity. TU_a is the reciprocal of the effluent concentration that causes 50% of the organisms to die by the end on the acute exposure period (i.e., 100/"LC_{50}").

3. "Administrator" means the Administrator of the EPA, or an authorized representative.

4. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

5. "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or

waste disposal, or drainage from raw material storage areas.

6. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

7. "Chronic toxic unit" ("TU_c") is a measure of chronic toxicity. TU_c is the reciprocal of the effluent concentration that causes no observable effect on the test organisms by the end of the chronic exposure period (i.e., 100/"NOEC").

8. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

9. "Director" means the Director of the Office of Water, EPA, or an authorized representative.

10. "DMR" means discharge monitoring report.

11. "EPA" means the United States Environmental Protection Agency.

12. "Geometric mean" of "n" quantities is the "nth" root of the product of the quantities. For example the geometric mean of 100, 200 and 300 is $(100 \text{ X } 200 \text{ X } 300)^{1/3} = 181.7$

13. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.

14. "Instantaneous Maximum Limit" means the maximum allowable concentration of a pollutant determined from the analysis of any composite sample collected, independent of the flow rate and the duration of the sampling event.

15. "LC_{50}" means the concentration of toxicant (e.g., effluent) which is lethal to 50% of the test organisms exposed in the time period prescribed by the test.

16. "Maximum daily discharge limitation" means the highest allowable "daily discharge."

17. "Method Detection Limit (MDL)" means the minimum concentration of a substance (analyte) that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

18. "Minium Level (ML)" means the concentration at which the entire analytical system must give a recognizable signal and an acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specified sample weights, volumes and processing steps have been followed.

19. "NOEC" means no observed effect concentration. The NOEC is the highest concentration of toxicant (e.g., effluent) to which organisms are exposed in a chronic toxicity test [full life-cycle or partial life-cycle (short term) test], that causes no observable adverse effects on the test organisms (i.e., the highest concentration of effluent in which the values for the observed responses are not statistically significantly different from the controls).

20. "POTW" means publicly owned treatment works.

21. "QA/QC" means quality assurance/quality control.

22. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.

23. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

24. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors

beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

25. "WWTP" means in this case a domestic wastewater treatment plant.

26. "24-hour composite" sample means a combination of at least 3 discrete samples (unless otherwise specified elsewhere in the permit) collected at equal time intervals from the same location, over an 24-hour period. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.

APPENDIX A

Priority Pollutants	
Parameter	**Sample Type**
Oil and Grease, mg/l	grab
Total Dissolved Solids, [1] mg/l	24 hour composite
Metals, Cyanide and total phenols	
Beryllium, [1,2] µg/l	24 hour composite
Cadmium, [1,2] µg/l	24 hour composite
Chromium, [1,2] µg/l	24 hour composite
Nickel, [1,2] µg/l	24 hour composite
Silver, [1,2] µg/l	24 hour composite
Thallium, [1,2] µg/l	24 hour composite
Cyanide total, µg/l	grab
Total phenolic compounds,µg/l	grab
Volatile Organic Compounds	
Acrolein,µg/l	grab
Acrylonitrile,µg/l	grab
Benzene,µg/l	grab
Bromoform,µg/l	grab
Carbon tetrachloride,µg/l	grab
Chlorobenzene,µg/l	grab
Chlorodibromomethane,µg/l	grab
Chloroethane,µg/l	grab
2-chloroethylvinyl ether,µg/l	grab
Chloroform,µg/l	grab
Dichlorobromomethane,µg/l	grab
1.1-dichloroethane,µg/l	grab
1,2-dichloroethane,µg/l	grab

Parameter	Sample Type
Trans-1,2-dichloroethylene,µg/l	grab
1,1-dichloroethylene,µg/l	grab
1,2-dichloropropane,µg/l	grab
1,3-dichloropropylene,µg/l	grab
Ethylbenzene,µg/l	grab
Methyl bromide,µg/l	grab
Methyl chloride,µg/l	grab
Methylene chloride,µg/l	grab
1,1,2,2-tetrachloroethane,µg/l	grab
Tetrachloroethylene,µg/l	grab
Toluene,µg/l	grab
1,1,1-trichloroethane,µg/l	grab
1,1,2-trichloroethane,µg/l	grab
Trichloroethylene,µg/l	grab
Vinyl chloride,µg/l	grab
Acid-extractable compounds	
P-chloro-m-creso, [1] µg/l	24 hour composite
2-chlorophenol, [1] µg/l	24 hour composite
2,4-dichlorophenol, [1] µg/l	24 hour composite
2,4-dimenthylphenol,µg/l	24 hour composite
Continue on Next Page...	
4,6-dinitro-o-cresol, [1] µg/l	24 hour composite
2,4-dinitrophenol, [1] µg/l	24 hour composite
2-nitrophenol, [1] µg/l	24 hour composite
4-nitrophenol, [1] µg/l	24 hour composite
Pentachlorophenol, [1] µg/l	24 hour composite
Phenol, [1] µg/l	24 hour composite
2,4,6-trichlorophenol, [1] µg/l	24 hour composite

Parameter	Sample Type
Base-neutral compounds	
Acenaphthene, [1] µg/l	24 hour composite
Acenaphthylene, [1] µg/l	24 hour composite
Anthracene, [1] µg/l	24 hour composite
Benzidine, [1] µg/l	24 hour composite
Benzo(a)anthracene, [1] µg/l	24 hour composite
Benzo(a)pyrene, [1] µg/l	24 hour composite
3,4 benzofluoranthene, [1] µg/l	24 hour composite
Benzo(ghi)perylene, [1] µg/l	24 hour composite
Benzo(k)fluoranthene, [1] µg/l	24 hour composite
Bis (2-chloroethoxy) methane, [1] µg/l	24 hour composite
Bis (2-chloroethyl) ether, [1] µg/l	24 hour composite
Bis (2-chloroisopropyl) ether, [1] µg/l	24 hour composite
Bis (2-ethylhexyl) phthalate, [1] µg/l	24 hour composite
4-bromophenyl phenyl ether, [1] µg/l	24 hour composite
Butyl benzyl phthalate, [1] µg/l	24 hour composite
2-chloronaphthalene, [1] µg/l	24 hour composite
4-chlorophenyl phenyl ether, [1] µg/l	24 hour composite
Chrysene, [1] µg/l	24 hour composite
Di-n-butyl phthalate, [1] µg/l	24 hour composite
Di-n-octyl phthalate, [1] µg/l	24 hour composite
Dibenzo(a,h)anthracene, [1] µg/l	24 hour composite
1,2-dichlorobenzene, [1] µg/l	24 hour composite
1,3-dichlorobenzene, [1] µg/l	24 hour composite
1,4-dichlorobenzene, [1] µg/l	24 hour composite
3,3-dichlorobenzidine, [1] µg/l	24 hour composite
Diethyl phthalate, [1] µg/l	24 hour composite
Dimethyl phthalate, [1] µg/l	24 hour composite

Parameter	Sample Type
2,4-dinitrotoluene, [1] µg/l	24 hour composite
2,6-dinitrotoluene, [1] µg/l	24 hour composite
1,2-diphenylhydrazine, [1] µg/l	24 hour composite
Fluoranthene, [1] µg/l	24 hour composite
Fluorene, [1] µg/l	24 hour composite
Hexachlorobenzene, [1] µg/l	24 hour composite
Hexachlorobutadiene, [1] µg/l	24 hour composite
Hexachlorocyclo-pentadiene, [1] µg/l	24 hour composite
Hexachloroethane, [1] µg/l	24 hour composite
Indeno(1,2,3-cd)pyrene, [1] µg/l	24 hour composite
Isophorone, [1] µg/l	24 hour composite
Naphthalene, [1] µg/l	24 hour composite
Nitrobenzene, [1] µg/l	24 hour composite
N-nitrosodi-n-propylamine, [1] µg/l	24 hour composite
N-nitrosodimenthylamine, [1] µg/l	24 hour composite
N-nitrosodiphenylamine, [1] µg/l	24 hour composite
Phenanthrene, [1] µg/l	24 hour composite
Pyrene, [1] µg/l	24 hour composite
1,2,4,-trichlorobenzene, [1] µg/l	24 hour composite

Footnotes;
1. 24 hour composite shall be collected in intervals ofno less than 15 minutes apart (total 96 samples) in a 24 hour time period.
2. Metals are to be analyzed as total recoverable.